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IN THE

Supreme Court of the United States

OCTOBER TERM, 1987

THE TIMES MIRROR COMPANY,
TRIBUNE NEWSPAPERS WEST, INC.,
and LOZANO ENTERPRISES,

Appellants,

v.

THE CITY OF LOS ANGELES,

Appellee.

On Appeal from the California Court of Appeal, Second Appellate District, Division Two

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BRIEF OF THE COPLEY PRESS, INC. AND THE NEW YORK TIMES COMPANY AS AMICI CURIAE IN SUPPORT OF APPELLANTS' JURISDICTIONAL STATEMENT

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BRIEF OF THE COPLEY PRESS, INC. AND THE NEW YORK TIMES COMPANY AS AMICI CURIAE IN SUPPORT OF APPELLANTS' JURISDICTIONAL STATEMENT

I.

INTERESTS OF AMICI CURIAE

Amici curiae are media organizations with a direct interest in the outcome of this litigation. The Copley Press, Inc. ("Copley") owns and operates several daily newspapers in California, including the *Daily Breeze* in Torrance, the *News-Pilot* in San Pedro, and the *Evening Outlook* in Santa Monica, along with the *San Diego Union* and *The Tribune* in San Diego (the morning and afternoon daily

newspapers of California's second largest city), and seven newspapers in Illinois. Copley also has a direct interest in the outcome of this action because it is presently subject to taxation under the Los Angeles Municipal Code. Copely is the plaintiff in a case pending in the Los Angeles Superior Court which challenges the constitutionality of the same Los Angeles Municipal ordinances at issue in the case at bar, and which raises issues identical to those here, namely, whether differential and discretionary taxation of the media is unconstitutional. (*The Copley Press, Inc. v. City of Los Angeles*, Los Angeles County Superior Court No. C 541713.)

The New York Times Company ("New York Times") is the publisher of *The New York Times*, a national newspaper with a circulation of over one million daily and 1.6 million on Sundays. New York Times also owns and operates 35 smaller regional newspapers, including *The Santa Barbara News Press* in Santa Barbara, California, and *The Press Democrat* in Santa Rosa, California, along with several nationally circulated magazines, five television stations and two radio stations. New York Times has a direct interest in the outcome of this action because it is presently subject to taxation under the Los Angeles Municipal Code. A New York Times subsidiary is the plaintiff in a case pending in Los Angeles County Superior Court which challenges the same Los Angeles municipal ordinance at issue in the case at bar, and which raises issues identical to those here, namely, whether differential and discretionary taxation of the media is unconstitutional. (*New York Times Sales, Inc. et al. v. City of Los Angeles*, Los Angeles County Superior Court No. C 586029.)

In addition, both Copley and New York Times have a strong interest in a clear directive from this Court on the questions presented by appellants concerning the constitutionality of differential and discretionary taxation of the media. Such a directive is required to eliminate conflicting decisions among the state and federal courts which have

led and will continue to lead to inconsistent rulings and interminable litigation.[1]

II.

THE QUESTIONS PRESENTED BY APPELLANTS' JURISDICTIONAL STATEMENT ARE SUBSTANTIAL AND SHOULD BE ADJUDICATED BY THIS COURT

The questions presented by appellants in this case raise important issues of constitutional law which have not previously been decided by this Court. Those issues, which involve the conflict between a state's taxing power and the right to free speech and press under the First Amendment, have ramifications that go far beyond the instant case.

The resolution of these issues is of substantial interest to all members of the media and taxing authorities throughout the country, because the City of Los Angeles is one of the largest municipalities in the United States. Its success or failure in this case will set a national pattern for what is constitutionally permissible in taxing the media.

Furthermore, many members of the media, like *amici*, have interests in the outcome of this case which transcend state lines. They are presently subjected to a variety of tax schemes based upon inconsistent interpretations of the constitutional limits on differential taxation. Without a clear directive from this Court, endless litigation in the state courts, and even greater inconsistency in the application of law by various jurisdictions, is inevitable.

In sum, all members of the media in this country, including *amici*, will be affected in some degree by this

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[1]Pursuant to Rule 36 of the Rules of this Court, the consent of the parties for the filing of this brief has been obtained. Their letters of consent will be filed with the Clerk of this Court as soon as they are available.

Court's ruling on these issues because the principles involved are important to the operations of all media and all taxing authorities. It is therefore important for this Court to clarify in this case the constitutional limitations on differential and discretionary taxation of the media.

III.

CONCLUSION

For the reasons set forth above, *amici* respectfully request this Court to note probable jurisdiction over this case and to give plenary consideration to the important questions it presents.

December 1, 1987.

Respectfully submitted,

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